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7 NATIONAL TPS ALLIANCE, et al.,  
8 Plaintiffs,  
9 v.  
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11 KRISTI NOEM, et al.,  
12 Defendants.  
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Case No. 25-cv-05687-TLT

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15 **QUESTIONS FOR THE HEARING**

16 Re: Dkt. Nos. 89, 99, 106

17 **I. DEFINING THE HARM**

18 **1. To Plaintiffs:** Defendants argue that the proposed class includes individuals who “allege  
19 different injuries that would arise from a loss of TPS.” ECF 99 at 12. Plaintiffs respond  
20 that typicality is established because “Plaintiffs and Proposed Class members face the  
21 uniform harm of losing TPS due to Defendants’ wrongful terminations.” ECF 106 at 7.  
22 Plaintiffs cite *Ellis v. Costco Wholesale Corp* for the proposition that typicality looks to  
23 “whether other members have the same or similar injury, whether the action is based on  
24 conduct which is not unique to the named plaintiffs, and whether other class members have  
25 been injured by the same course of conduct,” but the underlying conduct alleged in *Ellis*  
26 was gender discrimination, not unlawful government action. 657 F.3d 970, 984 (9th Cir.  
27 2011). Please provide a citation supporting the proposition that the unlawful termination  
28 of TPS is an independent, legally cognizable injury.

1        **II. CLASS MEMBERS ABROAD**

2        **1. To Defendants:** Defendants argue the class includes “individuals who may have once held  
3        TPS benefits but . . . no longer reside in the United States.” ECF 99 at 10. Yet, residency  
4        in the United States is a prerequisite for TPS eligibility. 8 U.S.C. § 1254a(c)(4)(B).  
5            a. Are Defendants referring to foreign nationals who left the United States voluntarily  
6        during the duration of their country’s TPS designation, or those who left the United  
7        States after the termination of their country’s TPS designation (July 5, 2025, and  
8        June 6, 2025, respectively)?  
9              i. How, if at all, do Defendants distinguish between those who left the United  
10       States voluntarily and those who were forcibly removed?

11        **2. To Plaintiffs:** Plaintiffs contend that there is a lack of evidence demonstrating “former  
12       TPS holders who no longer reside in this country . . . is anything more than a de minimis  
13       group.” ECF 106 at 3. Do Plaintiffs have an estimate as to the number of former TPS  
14       holders from Honduras, Nepal, and Nicaragua who left the United States after the  
15       termination of their country’s TPS designation?

16        **III. CERTIFICATION OF MULTIPLE CLASSES**

17        **1. To Defendants:** Defendants object to Plaintiffs’ request to certify three different classes.  
18       ECF 99 at 1, 14. The Ninth Circuit has affirmed lower court judgements certifying  
19       multiple classes in one motion for class certification. *See Owino v. CoreCivic, Inc.* 60  
20       F.4th 437, 450 (9th Cir. 2022) (affirming certification of three classes with no discussion  
21       of subclasses); *Wit v. United Behavioral Health* 70 F.4th 1068, 1089 (9th Cir. 2023)  
22       (“[T]he district court did not err in certifying three classes to pursue the fiduciary duty  
23       claim”). How do Defendants distinguish this case from the precedent cited?

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1      **IV. FORM OF RELIEF**

2      **1. To Plaintiffs:** Plaintiffs argue that, at this stage in the litigation, it is inappropriate for the  
3      Court to address the nature of the relief available to them. ECF 106 at 12. The  
4      “appropriateness of any relief . . . is properly addressed during the merits proceedings.” *Id.*  
5      (citing *Santillan v. Ashcroft*, No. C 04-2686 MHP, 2004 WL 2297990, at \*8 (N.D. Cal.  
6      Oct. 12, 2004)). Yet, as Plaintiffs note, “[t]he key to the (b)(2) class is the indivisible  
7      nature of the injunctive or declaratory remedy warranted.” ECF 106 at 9 (citing *Wal-Mart*  
8      *Stores*, 564 U.S. 338, 360 (2011)). Explain the limits or the scope of the Court’s  
9      consideration of the relief sought at this stage of the litigation. Provide legal citations to  
10     support your argument.

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12     The parties are *encouraged* to respond in writing by September 15, 2025. A timely  
13     response will allow the Court to receive the benefit of the parties briefing on the Court’s questions  
14     prior to oral argument.

15     If the parties are requesting that the matter be submitted on the briefing, this should also be  
16     included in the written response. *See* L.R. 7-1(b) (authorizing courts to dispense with oral  
17     argument on any motion except where an oral hearing is required by statute).

19     **IT IS SO ORDERED.**

20     Dated: September 10, 2025

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22     TRINA L. THOMPSON  
23     United States District Judge